

## **STAFF REPORT**

**TO:** The Monroe County Planning Commission  
**FROM:** Clarence Feagin, Ph.D., AICP, Senior Planner  
**DATE:** February 02, 2006  
**RE:** Administrative Appeal for Bergin Land Trust

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### **MEETING DATE:**

February 08, 2006

### **REQUEST:**

#### **A. Description of Project:**

The applicant owns two (2) parcels of land (lots 17 and 32) on Summerland Key separated by a County road. Lot 32 has three (3) ROGO exempt dwelling units that were built before 1986. The applicant wants to demolish the three (3) units on Lot 32 and transfer the development rights for those units to Lot 17 and construct 3 new residential dwellings. The appellant proposes to aggregate two adjacent parcels as a common theme of development for the on-site redevelopment of the 3 ROGO exempt dwelling units.

#### **B. Location of Property:**

The lots are located at 17 East Shore Drive, Summerland Key, Monroe County, Florida. The Real Estate Numbers are 00200710-000000 (lot 32) and 00200610-000000 (lot 17).

#### **C. Applicant/Appellant/Appellant Agent:**

Applicant/Owner: Bergin Land Trust  
Appellant: Mr. Tim Bergin, Trustee  
Agent: Tom Williams of the Craig Company, P.O. Box 372, Key West, FL 33041

#### **D. Decision Being Appealed:**

The determination that three (3) existing residential units may not be rebuilt and exempt from ROGO for RE # 00200710-000000 (lot 32) of Summerland Key.

**E. Date of Decision:**

September 29, 2005

**F. Appellant's Basis for Appeal:**

In a September 29, 2005 letter to the appellant, planning staff recognized the three (3) lawfully established ROGO exempt dwelling units on Lot 32, but would not allow the transfer of the three (3) ROGO exempt units to lot 17 due to their interpretation of Section 9.5-120.4(b) of the Monroe County Code (MCC) to mean that the off-site transfer of ROGO exempt dwelling units is limited only to receiver sites that are hotels or affordable housing.

The appellant argues that they propose redevelopment on-site, not off-site, and that staff's interpretation of the MCC doesn't apply. Specifically, the applicant argues the two (2) parcels are contiguous, even though separated by a road, and propose to aggregate the two (2) parcels as a common theme of development, demolish the three (3) units on lot 32 and rebuild them on lot 17, thus constituting redevelopment on-site and not requiring the off-site transfer of ROGO exempt units to another parcel.

**Staff offers the following response to the appellant's argument:**

Staff maintains their interpretation of the MCC that limits the off-site transfer of ROGO exempt dwelling units to hotels and affordable housing is correct and an appropriate application of Section 9.5-120.4(b) MCC to the appellant's proposal. Staff maintains that for parcels to be aggregated as a common theme of development they must be contiguous. Staff argues that the appellant's parcels are not contiguous pursuant to the definition of *contiguous* in 9.5-4(C-23) because the road separating the two parcels is not a utility easement and the two lots do not share a common border. Therefore, the two (2) lots can not be aggregated as a common theme of development. The appellant's parcels are not contiguous, they are adjacent.

**STAFF RECOMMENDATION:**

Planning staff recommends denial of the appellant's proposal to aggregate lots 17 and 32 as a common theme for the on-site redevelopment of three (3) ROGO exempt dwelling units because the two (2) parcels are not contiguous. Staff recommends the appellant schedule a pre-application conference meeting with Staff to discuss possible alternatives.

